

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
REVOCATION OF: LICENSING
AUTHORITY OF:

HEARING NO. 4128

Mr. Henry Gritz
228 Alpine Dr.
Paramus, NJ 07652

ORDER

I, Deirdre K. Manna, Acting Director of Insurance of the State of Illinois, hereby certify that I have read the entire Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Louis Butler, heretofore appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a hearing in the above-captioned matter and that I have carefully considered the entire Record of the Hearing and the Findings of Fact, and Conclusions of Law and Recommendations of the Hearing Officer attached hereto and made a part hereof.

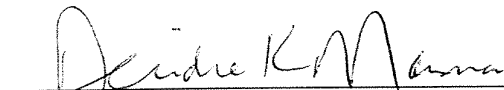
I, Deirdre K. Manna, Acting Director of Insurance, being duly advised in the premises, do hereby adopt the Findings of Fact, and Conclusions of Law and Recommendations of the Hearing Officer as my own, and based on said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Article XXIV of the Illinois Insurance Code (215 ILCS 5/401 et seq.) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et seq.).

This Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 et seq.). Further this Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

THEREFORE IT IS HEREBY ORDERED THAT:

- 1) The Illinois Public Insurance Adjuster's license of the Respondent, Henry Gritz, is revoked;
- 2) The Respondent, Henry Gritz, pay as costs of this proceeding, within 35 days of the date of this Order, the sum of \$394.50, directly to the Illinois Department of Insurance, Tax and Fiscal Services Section, 320 West Washington Street, Springfield, Illinois 62767-0001.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the Official
Seal of the Department of Insurance in the City
of Springfield, State of Illinois this 11th day
of May, A.D., 2004


Deirdre K. Manna
Acting Director

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
REVOCATION OF LICENSING
AUTHORITY OF:

HEARING NO. 4128

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING OFFICER

Now comes Louis Butler, Hearing Officer, in the above-captioned matter and hereby offers his Findings of Fact, Conclusions of Law and Recommendations to the Acting Director of Insurance.

FINDINGS OF FACT

- 1) On December 3, 2003 the then Director of Insurance, J. Anthony Clark ("the Director"), issued an Order of Revocation revoking the Illinois Public Insurance Adjuster's license of Henry Gritz (Respondent). (Hearing Officer Exhibit # 2a)
- 2) On or about December 10, 2003 the Illinois Department of Insurance (Department) received a Request for Hearing from the Respondent. (Hearing Officer Exhibit # 2b)
- 3) On December 29, 2003 the former Director issued a Notice of Hearing in this matter setting a Hearing date and location of January 22, 2004 at 10:00 a .m. at the Department's offices in Chicago, Illinois. (Hearing Officer Exhibit # 2)
- 4) On December 29, 2003, Glen R. Gasiorek filed a Notice of Appearance as Counsel for the Department in this matter. (Hearing Officer Exhibit # 2)

- 5) On December 29, 2003 the former Director appointed Louis Butler as Hearing Officer in this matter. (Hearing Officer Exhibit # 1)
- 6) On January 15, 2004 Respondent requested a Continuance in this matter. (Hearing Officer Exhibit # 3)
- 7) On January 16, 2004 the Hearing Officer granted the Respondent's request for Continuance in this matter until March 31, 2004. (Hearing Officer Exhibit # 4)
- 8) The Hearing in this matter was convened at the Department's offices in Chicago, Illinois at 10:00 a.m. on March 31, 2004 at which time were present Louis Butler, Hearing Officer, Glen R. Gasiorok on behalf of the Department, Richard Nitka and Tim Cena with the Department.
- 9) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Public Insurance Adjuster's license and to determine whether the former Director's Order of Revocation of the Respondent's license should stand.
- 10) In its case in chief in this matter the Department, through Mr. Gasiorok, offered three exhibits into the record. The Department's Exhibit #2 is a certified copy of a judgment from the United States District Court, Eastern District of New York, Hauppauge Division in criminal case CR 97-01069-01, captioned, United States of America v. Henry Gritz. Department Exhibit #2 is dated May 14, 1999 and indicates that Respondent pled guilty to a count of conspiracy to commit mail fraud and that the imposition of his sentence was May 12, 1999.
- 11) Department Exhibit # 1 is a certified copy of Respondent's application for a public adjuster's license. The license application is signed by Respondent on November 22, 2000. In response to the question whether Respondent had been found guilty of a felony within the prior three years, Respondent answered "No".
- 12) The Department's Exhibit #3 is a certified copy of a Hearing Officer's report issued by the New York Department of Insurance dated May 15, 2002 in the matter of the application of Respondent for a public adjuster's license in New York. Also attached to Department Exhibit # 3 is a certified copy of a final determination and order rendered by the New York Department of Insurance dated July 15, 2002. The final determination and order indicated that the application of Respondent failed to introduce any evidence to demonstrate his present trustworthiness.
- 13) The Respondent, Henry Gritz, testified in a narrative form, on his own behalf in this matter as follows:
 - a) Respondent does not believe that he intentionally made a material misstatement on the application for a public adjuster's license. Respondent believed that the date he pled guilty was the operative date of his conviction. Respondent testified that he pled guilty on November 21, 1997 and that he

submitted his application for a public adjuster's license on November 22, 2000, three years and a day after he pled guilty.

- b) Respondent's Exhibit # 1 is a letter from United States District Court Probation Office, District of New Jersey. Respondent's Exhibit #1 states that Respondent's conviction date is the date he pled guilty to the charge of conspiracy to commit mail fraud and that the sentence date (May 14, 199) is the date his sentence was adjudicated.
- c) Respondent submitted a "Certificate of Good Conduct" issued by the United States District Court Probation Office, District of New Jersey dated May 22, 2001. Respondent Exhibit # 3.
- d) Respondent submitted a letter regarding early termination of supervision issued by the United States District Court Probation Office, District of New Jersey dated December 11, 2001. Respondent Exhibit # 4.
- e) Respondent submitted a "Certificate of Relief of Disabilities" issued by Honorable Plummer E. Lott, Justice of the Supreme Court of New York, dated November 21, 2002. Respondent Exhibit # 5.
- f) Respondent submitted a copy of a Hearing Officer's report issued by the New York Department of Insurance dated December 10, 2001 in the matter of the denial of Respondent's application for a public adjuster license in New York. Respondent Exhibit # 6. The Hearing Officer recommended that Respondent's application be held in suspension for six months to give him an opportunity to secure a document to remove the statutory bar pursuant to New York law.

14) Esquire Deposition Services, recorded the testimony taken in this proceeding and charged the Department \$394.50 for the Court Reporter's attendance and one copy of the proceedings.

CONCLUSIONS OF LAW

Based on the above-listed Findings of Fact and the entire Record in this matter the Hearing Officer offers the following Conclusions of Law to the Acting Director of Insurance.

- 1) Louis Butler was duly appointed Hearing Officer in this matter pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402).
- 2) The Acting Director of Insurance has jurisdiction over the subject matter and the parties in this proceeding pursuant to Sections 401, 402, 403 and 500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403 and 5/500-70) and Section 10-65(c) of the Illinois Administrative Procedure Act (5 ILCS 100/10-65(c)).

- 3) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Public Insurance Adjuster's license and to determine whether the former Director's Order of Revocation of the Respondent's license should stand.
- 4) In its Order of Revocation and Notice of Hearing, the Department alleged that the Respondent on May 12, 1999 in the United States District Court, Eastern District of New York, Hauppauge Division was convicted of conspiracy to commit mail fraud which is a ground for revocation pursuant to Section 512.61(a)(7) of the Illinois Insurance Code (215 ILCS 5/512.61(a)(7)).
- 5) The Department further alleged that on November 22, 2000, the Respondent submitted a Public Adjuster's License Application to the Department, and that Question #1 on the application asks: "Have you, within the past three years, been found guilty of a felony?" and the Respondent answered "No". The Department alleges, therefore, that the Respondent made a material misstatement in the license application and obtained a license as a Public Adjuster through misrepresentation.
- 6) The Department alleges that the Respondent was denied a public adjuster's license in the State of New York on grounds similar to the grounds of revocation in Illinois which is a ground for revocation pursuant to Section 512.61(a)(10) of the Illinois Insurance Code (215 ILCS 5/512.61(a)(10)).

Sections 5/512.61(a)(7) and (10) provide, inter alia:

License suspension, revocation or denial. (a) Any license issued under this Article may, after notice to the licensee and hearing as provided by Section 402 [215 ILCS 5/402], be suspended or revoked, and any application for a license be denied, if the Director finds that the the holder or applicant for a license has:

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(7) been convicted of a felony, unless the individual demonstrates to the Director sufficient rehabilitation to warrant the public trust;

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(10) a license as a Public Insurance Adjuster suspended or revoked or an application denied in any other state, district, territory or province on a ground similar to one of the grounds stated in this Section.

The evidence presented by the Department in this matter indicates that the Respondent pled guilty to conspiracy to commit mail fraud on November 21, 1997. However, the Department's Exhibit #2 is a certified copy of a judgment, dated May 14, 1999, which indicates that

Respondent pled guilty to a count of conspiracy to commit mail fraud, but that the imposition of his sentence was not until May 12, 1999. The date of the imposition of sentence is the date of Respondent's conviction for purposes of Section 5/512.61(a)(7.) Therefore, the Respondent made a material misstatement in the license application and obtained a license as a Public Adjuster through misrepresentation which is a ground for revocation pursuant to Section 512.61(a)(7) of the Illinois Insurance Code (215 ILCS 5/512.61(a)(7)).

The evidence also supports the Department's allegations that Respondent was denied a public adjuster's license in the State of New York on grounds similar to the grounds of revocation in Illinois. Department Exhibit # 3 indicates that the State of New York revoked Respondent's public adjuster license based on his felony conviction. The subsequent administrative actions brought by Respondent in New York sought to determine if he had successfully removed a statutory bar to licensure. The State of New York ultimately determined that Respondent had not demonstrated his present trustworthiness or that the license should be issued even if the statutory bar were eliminated.¹


In light of the above, the Hearing Officer concludes that the Director of Insurance properly concluded that the Respondent made a material misstatement in the license application and obtained a license as a Public Adjuster through misrepresentation. The Hearing Officer concludes that the former Director properly and correctly revoked the Respondent's Public Adjuster license pursuant to Sections 512.61(a)(7) and (10) of the Illinois Insurance Code (215 ILCS 5/512.61(a)(7) and (10)).

RECOMMENDATIONS

Based upon the above-stated Findings of Fact, Conclusions of Law and the entire Record in this matter, the Hearing Officer offers the following Recommendations to the Director of Insurance.

- 1) That the Respondent's Illinois Public Insurance Adjuster's license be revoked; and
- 2) That the Respondent be assessed the costs of this proceeding. ✍

Date: 4/30/04


Louis Butler
Hearing Officer

¹ The November 21, 2002 Certificate of Relief of Disabilities" apparently would have eliminated the statutory bar had it been issued earlier. Respondent Exhibit # 5. However, this does not negate the fact that Respondent was denied in any other state, district, territory or province on a ground similar to one of the grounds stated in 5/512.61(a)(7).